ANALYSIS

1997, No. 87

**An Act to reform and restate the law relating to agricultural compounds, and to repeal—**

**(a) The Stock Foods Act 1946; and**
**(b) The Fertilisers Act 1960; and**
**(c) The Animal Remedies Act 1967; and**
**(d) The Fertilisers Act 1982** [*21 November 1997*

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Agricultural Compounds and Veterinary Medicines Act 1997.

(2) This Act comes into force on a date to be appointed by the Governor-General by Order in Council.

## PART 1

### PRELIMINARY

**2. Interpretation**—(1) In this Act, unless the context otherwise requires,—

"Accredited person" means a person for the time being appointed as an accredited person under section 62:

"Advertisement" means any publication to the community or to any section of the community of any words, whether written, printed, spoken, or in any electronic form, or of any pictorial representation or design or device, used to promote the sale of any agricultural compound; and "to advertise" has a corresponding meaning:

"Agricultural compound" means any substance, mixture of substances, or biological compound, used or intended for use in the direct management of plants and animals, or to be applied to the land, place, or water on or in which the plants and animals are managed, for the purposes of—

(a) Managing or eradicating pests, including vertebrate pests; or

(b) Maintaining, promoting, or regulating plant or animal productivity and performance or reproduction; or

(c) Fulfilling special nutritional requirements; or

(d) The manipulation, capture, or immobilisation of animals; or

(e) Diagnosing the condition of animals; or

(f) Preventing or treating conditions of animals; or

(g) Enhancing the effectiveness of an agricultural compound used for the treatment of plants and animals; or

(h) Marking animals;—

and includes any veterinary medicine, any substance, mixture of substances, or biological compound used for post-harvest pest control or disinfestation of raw primary produce, and any substance, mixture of substances, or biological compound declared to be an agricultural compound for the purposes of this Act by Order in Council made under subsection (2):

"Agricultural security" means the exclusion, eradication, and effective management of—

(a) Pests:

(b) Unwanted organisms under the Biosecurity Act 1993:

"Animal" means any living stage of any member of the animal kingdom except human beings:

"Authorised person" means a person for the time being appointed as an authorised person under section 61:

"Authorised place" means any place where an inspector has authorised an imported agricultural compound to be held; and includes any transitional facility under the Biosecurity Act 1993:

"Biological compound" means any agricultural compound that is—

(a) A preparation of animal origin; or

(b) A bacterial or viral vaccine, whether living or not; or

(c) A virus, mycoplasma, or other micro-organism, whether living or not; or

(d) A product of a virus, mycoplasma, or other micro-organism, or any substance manufactured for the purpose of having the same action as a product of a virus, mycoplasma, or other micro-organism:

"Code of practice" means any document issued or approved in accordance with section 28:

"Container" includes anything in or by which an agricultural compound may be cased, covered, enclosed, contained, or packed; and, in the case of any agricultural compound sold or carried or

intended for sale in more than one container, includes every such container:

"Craft" means any form of aircraft, ship, or other vehicle or vessel capable of being used to transport any agricultural compound to or from New Zealand or from or to any country outside New Zealand:

"Director-General" means the chief executive of the Ministry of Agriculture:

"Hazardous substance" has the same meaning as in the Hazardous Substances and New Organisms Act 1996:

"Import" means bring or cause to be brought into New Zealand territory from outside that territory; and "imported" has a corresponding meaning:

"Inspector" means a person for the time being appointed as an inspector under section 60:

"Label", in relation to any agricultural compound or any container used to contain an agricultural compound, means any written, pictorial, or other descriptive matter under which the compound is sold or to be sold and which purports to give some information about the compound:

"Manufacture", in relation to any agricultural compound, means to make up, prepare, produce, or process the agricultural compound; and includes the packing of an agricultural compound in a container for the purposes of sale:

"Marae" includes the area of land on which all buildings such as the wharenui (meeting house), the wharekai (dining room), ablution blocks, and any other associated buildings are situated:

"Minister" means the Minister who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act:

"New organism" has the same meaning as in the Hazardous Substances and New Organisms Act 1996:

"Person" includes the Crown, a corporation, and a body of persons (whether corporate or unincorporated):

"Pest"—

(a) Includes any unwanted living organism including micro-organisms, pest agents, and any genetic structure that is capable of replicating itself (whether that structure comprises all or only part of an entity, and whether it comprises all or only part of

the total genetic structure of an entity) that may affect plants, animals, or raw primary produce; and

(b) Includes any entity declared to be a pest for the purposes of this Act by Order in Council made under subsection (2):

(c) Does not include—

(i) Any human being or living organism which affects only human beings; and

(ii) Any living organism declared not to be a pest for the purposes of this Act by Order in Council made under subsection (2):

"Pest agent" has the same meaning as in section 2 (1) of the Biosecurity Act 1993:

"Place" includes any building, conveyance, craft, land, or structure:

"Prescribed" means prescribed by regulations made under this Act:

"Primary produce" includes any plant or animal, or any derivative of any plant or animal, intended for sale:

"Registered" means registered under section 21 or section 27:

"Registrant" means, in relation to a registered trade name product, the person who applied to register that product or the person to whom a registration is transferred:

"Regulations" means regulations in force under this Act:

"Risk" includes any costs or potential costs:

"Sale" includes barter, and also includes offering, exposing, or attempting to sell, or having in possession for sale, or sending or delivering for sale, or causing or allowing to be sold, offered, or exposed for sale; and also includes—

(a) Delivering or disposing of by way of gift, loan, or otherwise; and

(b) Giving or distributing, in the course of business, as a sample or otherwise, without charge:

"Trade name product" means an agricultural compound identified and packaged under a trade name for a specified use or uses:

"Use", in relation to any agricultural compound, includes its use in such a way that animals, plants, or raw primary produce are exposed to it:

"Veterinarian" means a person for the time being registered as a veterinary surgeon under the Veterinarians Act 1994:

"Veterinary medicine" means any substance, mixture of substances, or biological compound used or intended for use in the direct management of an animal:

"Working day" means any day except—

(a) A Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's Birthday, and Waitangi Day; and

(b) A day in the period commencing on 20 December in any year and ending with 15 January in the following year.

(2) The Governor-General may from time to time, by Order in Council, declare—

(a) Any substance to be an agricultural compound; or

(b) Any entity to be a pest; or

(c) Any entity not to be a pest—

for the purposes of this Act.

(3) Every Order in Council made under subsection (2) is deemed to be a regulation for the purpose of the Regulations (Disallowance) Act 1989.

**3. Act to bind the Crown**—This Act binds the Crown.

**4. Purpose of Act**—The purpose of this Act is to—

(a) Prevent or manage risks associated with the use of agricultural compounds, being—

(i) Risks to trade in primary produce; and

(ii) Risks to animal welfare; and

(iii) Risks to agricultural security:

(b) Ensure that the use of agricultural compounds does not result in breaches of domestic food residue standards:

(c) Ensure the provision of sufficient consumer information about agricultural compounds.

## PART 2

## IMPORTATION, MANUFACTURE, AND SALE OF AGRICULTURAL COMPOUNDS

### *Importation*

**5. Imported agricultural compounds to be cleared for entry into New Zealand**—No person may cause or permit any agricultural compound which is imported into New Zealand or any substance, mixture of substances, or biological

compound which is used or intended to be used as an agricultural compound and which is imported into New Zealand to leave any craft or authorised place except—

(a) To proceed, with the authority of an inspector, to another craft or authorised place; or

(b) With the authority of an inspector, to be exported from New Zealand; or

(c) To enter into New Zealand after being cleared for entry by an inspector in accordance with section 6.

**6. Agricultural compound clearance**—(1) An inspector may give a clearance for entry into New Zealand for an agricultural compound or a substance, mixture of substances, or a biological compound used or intended to be used as an agricultural compound, if—

(a) The substance, mixture of substances, or biological compound is—

(i) A registered trade name product and the product complies with the conditions attached to that registration; or

(ii) An agricultural compound and is exempt from registration as a trade name product by regulations made under section 75; or

(iii) An agricultural compound that complies with Part 8; or

(iv) A substance, mixture of substances, or a biological compound that the importer has declared, in accordance with section 7, will not be used as an agricultural compound; and

(b) There are no discrepancies in the documentation accompanying the goods or between that documentation and those goods, that suggest that it may be unwise to rely on that documentation.

(2) Any clearance for entry into New Zealand given under this section does not affect the provisions of any other Act.

**7. Declaration**—The importer of any substance, mixture of substances, or biological compound may, for the purposes of section 6 (1) (a) (iv), make a statutory declaration declaring that the substance, mixture of substances, or biological compound will not be sold for use as an agricultural compound.

**8. Prohibition of sale or use**—No person may sell within New Zealand, or use, any agricultural compound unless that

agricultural compound is a registered trade name product, is exempt from registration by regulations made under section 75, or the provisions of Part 8 apply.

*Registration of Agricultural Compounds*

**9. Application for registration**—(1) Any person may apply to the Director-General to register a trade name product unless that product contains an agricultural compound that is—

(a) A substance, mixture of substances, or biological compound prohibited from use as an agricultural compound or prohibited from use as an ingredient in an agricultural compound in accordance with regulations made under section 75; or

(b) A substance, mixture of substances, or biological compound which is exempt from registration as an agricultural compound by regulations made under section 75.

(2) The registrant may apply to the Director-General to vary 1 or more of the conditions on a registered trade name product.

**10. Form of application**—(1) Every application must be in the form specified from time to time by the Director-General.

(2) Every application must contain the information specified from time to time by the Director-General for any agricultural compound or group of agricultural compounds or trade name product or products.

**11. Additional information**—(1) If, in the opinion of the Director-General, information additional to that provided under section 10 is required to assess the application, the Director-General may—

(a) Request the applicant to provide such additional information as the Director-General may specify in writing; and

(b) With the permission of the applicant, request any other person to supply such additional information as the Director-General may specify in writing.

(2) The Director-General may request any person to provide additional information other than information protected by sections 73, 109, and 121 for the purpose of verifying any information supplied to the Director-General, by any person for the purpose of assessing the application.

**12. Director-General to withhold information**—(1) If, in the Director-General's opinion, any information which has been supplied to the Director-General in respect of any application may be able to be withheld under section 9 (2) (b) of the Official Information Act 1982, that information must not be released to any person when an application is publicly notified.

(2) Where—

(a) The Director-General receives a request to release any information received in respect of an application, other than information to which Part 6 applies held by the Director-General under the Official Information Act 1982; and

(b) The information to which the request relates,—

(i) In the Director-General's opinion, may be able to be withheld under section 9 (2) (b) of that Act; or

(ii) Has been classified as commercially sensitive by the person who gave the information to the Director-General,—

the Director-General must immediately notify the person who gave the information to the Director-General that a request to release the information has been received.

(3) Where a person receives notice from the Director-General under subsection (2), that person must, within 10 working days of receipt of the notice, respond to the Director-General stating whether that person believes that the information should be withheld under section 9 (2) (b) of the Official Information Act 1982 and give reasons for that person's belief.

(4) Where a person fails to respond to the Director-General within the time stated in subsection (3), the Director-General may release the information without further reference to that person.

**13. Notification of application to Minister and departments**—(1) The Director-General must, upon receipt of an application, notify the nature and proposed use of the trade name product or the proposed variation of conditions to—

(a) The Minister; and

(b) The Environmental Risk Management Authority; and

(c) Those Departments listed in the First Schedule of the State Sector Act 1988 that have notified the Director-General that they have an interest in applications made under this Act.

(2) The Director-General must supply further information to any person notified under this section, if requested to do so by that person, unless that information is protected in accordance with sections 73, 109, or 121.

**14. Notification of application**—(1) The Director-General must, upon receipt of an application, publish a notice in the *Gazette* and give such further notice of the application as the Director-General thinks fit having regard to the nature of the application and the persons likely to have an interest in the application.

(2) The notice must include—

(a) A statement that an application has been made to register a trade name product or to vary a condition on a registered trade name product; and

(b) A brief summary of the relevant information on the trade name product; and

(c) Information on the proposed use of the trade name product or the variation proposed to a condition on a registered trade name product; and

(d) A statement that any person may make a written submission; and

(e) A closing date for receipt of the submissions by the Director-General, being no later than 30 working days after the date of public notification; and

(f) The place where the application and the accompanying information, other than information protected in accordance with sections 73, 109, or 121, may be viewed and the address for service of the Director-General and the applicant.

**15. Waiver of notification**—(1) The Director-General may waive the requirement to notify an application under sections 13 and 14 if—

(a) The application is made under section 9 (1) and there is a registered trade name product with the same active ingredients and an equivalent formulation as the trade name product that is the subject of the application; or

(b) The application is made under section 9 (2) and is for the variation of 1 or more of the following conditions on a registered trade name product:

(i) A minor condition on packaging:

(ii) A minor condition on use relating to the method of application:

(iii) A minor condition relating to the source of the product:

(iv) A minor variation to any other condition.

(2) The Director-General may waive the requirement to notify an application in accordance with section 14 if, in the Director-General's opinion, a trade name product is required for use in a biosecurity emergency declared under section 144 of the Biosecurity Act 1993 or a forest disease emergency declared under section 70B of the Forests Act 1949.

**16. Time limits and waivers**—(1) The Director-General must,—

(a) Where section 14 applies to an application, allow 30 working days from the date of public notification for the receipt of submissions:

(b) Fix a date for consideration of the application being,—

(i) Where sections 15 and 26(2) apply to the application, not more than 25 working days after the receipt of the application; or

(ii) Where the application is publicly notified, not more than 25 working days after the closing date for submissions.

(2) The Director-General must, unless the agricultural compound is also a hazardous substance or new organism, publicly notify his or her decision not later than 15 working days after the consideration of the application.

(3) If the trade name product contains an agricultural compound that is also a hazardous substance or new organism and the time limits under subsections (1) and (2) have expired, the Director-General must publicly notify his or her decision not later than 5 working days after the decision under the Hazardous Substances and New Organisms Act 1996.

(4) A person may apply to the Director-General to—

(a) Waive a requirement of this Act concerning—

(i) The time within which any action must be carried out; or

(ii) The information that must be supplied; or

(b) Give a direction concerning—

(i) The time within which any action must be carried out; or

(ii) The terms on which any information must be supplied.

(5) The Director-General must not extend any time period or grant an application under this section to waive a requirement as to the time within which any action must be carried out unless he or she is satisfied that—

(a) The applicant and the persons making submissions consent to that waiver; or

(b) Any of those parties who have not so consented will not be unduly prejudiced.

(6) The Minister may at any time extend any time limit under this Act, whether or not an application has been made under this section or that time limit has expired, if he or she is satisfied that—

(a) The applicant and the persons making submissions consent to the extension; or

(b) Any of those parties who have not so consented will not be unduly prejudiced,—

but in all cases must ensure the matter is carried out as promptly as is reasonable in the circumstances.

**17. Submissions on applications**—(1) Any person may make a written submission to the Director-General on any application notified in accordance with sections 13 and 14.

(2) The submission—

(a) Must state in full the reasons for making the submission; and

(b) May state any decision sought.

**18. Submissions to be forwarded to applicant**—The Director-General must forward a copy of every submission to the applicant as soon as reasonably practicable after receipt of the submission by the Director-General.

**19. Relevant risks and benefits**—The only risks and benefits relevant to a decision under section 21 are—

(a) Risks to trade and market access for primary produce containing any substance, mixture of substances, or biological compound that forms a part of the trade name product:

(b) Risks to agricultural security:

(c) Risks to the welfare of animals which result from treatment with or exposure to any substance, mixture of substances, or biological compound that forms a part of the trade name product:

(d) Risks to domestic food residue standards:

(e) The benefits of the trade name product and the likely consequences of the public not having access, or having restricted access, to the trade name product, including consideration of whether alternative means of achieving the stated purpose of the trade name product are available.

**20. Evaluation of risks and benefits**—The Director-General must, when evaluating the risks and benefits under section 21, have regard to—

(a) All relevant scientific and technical information held by the Director-General other than information protected in accordance with section 73, section 109, or section 121; and

(b) New Zealand's international obligations, assurances, and reputation; and

(c) Any submissions received under section 17.

**21. Decision on application**—(1) The Director-General must consider any application made under section 9 and must—

(a) Identify the risks and benefits likely to result from the manufacture and use of the trade name product, and any known practicable alternative methods of managing those risks; and

(b) Evaluate the likely risks and benefits of each alternative method identified in accordance with paragraph (a); and

(c) Decline the application if, in the opinion of the Director-General,—

(i) The risks likely to result from the use of that product cannot be sufficiently reduced by imposing conditions on the registration of the trade name product; or

(ii) Insufficient information is available to assess the risks likely to result from the use of the trade name product; or

(d) In every other case, register the trade name product without conditions, or with the conditions imposed in accordance with section 23 that the Director-General, after taking into account the costs of those conditions, considers will—

(i) Manage the risks from the use of the product; and

(ii) Impose the least cost on the public.

(2) The decision to register a trade name product may provide—

(a) That the registration expires upon a fixed date; or

(b) That the registration expires when the purpose of the registration has been achieved.

(3) Subject to the provisions of Part 6, the Director-General must give the decision in writing, with reasons, to the applicant and to every person who made a submission.

(4) The Director-General must not register a trade name product under this section without the consent of the Director-General of Health if that product is a prescription medicine within the meaning of section 3 of the Medicines Act 1981.

(5) Where a trade name product contains an agricultural compound that is also a hazardous substance or new organism, the Director-General must not register that product under this section, unless an approval for that substance or organism has been issued under the Hazardous Substances and New Organisms Act 1996.

**22. Term of registration**—(1) The registration of a trade name product remains in force until—

(a) The registration expires in accordance with section 21 (2) or section 27 (3); or

(b) The registration is cancelled in accordance with section 27 (6); or

(c) The trade name product is reassessed in accordance with section 29 or section 30, and declined; or

(d) The registration is surrendered by the registrant in accordance with section 34 (1); or

(e) The registration is revoked in accordance with section 57.

(2) Where registration of a trade name product has ceased in accordance with a provision listed in subsection (1), no person may—

(a) Import that trade name product; or

(b) Sell within New Zealand or use that trade name product except in accordance with a notice under subsection (3).

(3) Where registration of a trade name product has ceased in accordance with a provision in subsection (1), the Director-General—

(a) Must remove the trade name product from the register under section 24; and

(b) Must, by notice in the *Gazette*, give notice of the removal of the trade name product from the register; and

(c) Unless the trade name product was registered in accordance with section 27, may allow the sale and use of the trade name product to continue for a period specified in the *Gazette* notice; and

(d) Unless the trade name product was registered in accordance with section 27, may require any person holding the trade name product—

(i) To surrender that product to the Director-General; or

(ii) To dispose of that product in the manner determined by the Director-General at the expense of the person holding the product.

(4) Where a trade name product was registered in accordance with section 27, the trade name product must be disposed of in accordance with the conditions on the registration of the product.

**23. Conditions on trade name products**—(1) The Director-General may register a trade name product in accordance with section 21, subject to all or any of the following conditions:

(a) A condition on the use of the trade name product:

(b) A condition requiring the trade name product to originate from specified sources:

(c) A condition restricting the importation to certain classes of persons:

(d) A condition specifying the labelling, advertising, or other information requirements for the trade name product:

(e) A condition specifying standards of competence for manufacturers, sellers, purchasers, or users of the trade name product:

(f) A condition requiring codes of practice approved by the Director-General under section 28 to be followed when importing, manufacturing, selling, or using the trade name product:

(g) A condition on the packaging or storage of the trade name product:

(h) A condition specifying standards of quality, purity, and potency for the trade name product:

(i) A condition specifying procedures for testing the trade name product for quality, purity, or potency:

(j) A condition requiring systems to be approved to ensure that the trade name product meets specified standards of quality, purity, and potency, and procedures for auditing those systems:

(k) A condition requiring information and records to be kept and to be reported, or made available on request, to the Director-General, an inspector, or an authorised person:

(l) A condition requiring samples of the trade name product to be taken and tested and the test results to be made available on request to the Director-General, an inspector, or an authorised person:

(m) Such other conditions as the Director-General considers necessary to achieve the purposes of this Act.

(2) A condition imposed in accordance with this section may apply to any specified class of person or to every person who imports, manufactures, sells, or uses a trade name product; and every person to whom a condition applies must comply with that condition.

(3) The Director-General must, when imposing conditions in accordance with this section, take into account conditions imposed in any prescribed countries on the trade name product.

**24. Register of agricultural compounds**—(1) The Director-General must keep a register of all registered trade name products registered under section 21 or section 27.

(2) The register must specify—

(a) One trade name for the trade name product; and

(b) The name and principal business address of each registrant and his or her New Zealand agent; and

(c) Those particulars of the registered trade name product that are consistent with sections 73, 109, and 121; and

(d) The application number and the date on which the application was granted; and

(e) Whether the trade name product is registered under section 21 or section 27; and

(f) The conditions placed on the registration under section 23 or section 27; and

(g) The termination of any registration by any of the provisions listed in section 22; and

(h) A summary of the reasons for the decision; and

(i) The expiry date, if any, of a registration; and

(j) The address of every place of business where the registered trade name product is being or is to be manufactured; and

(k) Such other matters as the Director-General thinks fit.

(3) A copy of the certificate of registration issued under section 25 must be kept with the register for each application granted by the Director-General.

(4) The register must also specify any agricultural compounds exempted from registration by regulations made under section 75.

(5) Every person has the right to inspect the register during the ordinary office hours of the office where the register is held.

(6) The registrant must notify the Director-General of any change to the matters in subsections (1) (b) and (j) within 20 working days of the change taking place.

**25. Certificate of registration**—(1) The Director-General, when registering any trade name product in accordance with section 21 or section 27, must issue to the applicant a certificate of registration which must specify the matters in section 24 (2) (a), (b), (d), (e), (f), and (i), and may specify the matters in section 24 (2) (k).

(2) Where the Director-General is satisfied that a certificate of registration has been lost, destroyed, or cannot be produced, the Director-General may at any time, on application made to him or her by the registrant on a form approved by the Director-General for the purpose, issue a further certificate of registration to the registrant.

**26. Application for provisional registration**—(1) Any person may apply to the Director-General to provisionally register a trade name product of an agricultural compound.

(2) An application made under subsection (1) must be notified in accordance with section 13 but is not notified in accordance with section 14.

(3) Sections 10, 11, 12, 15, and 19 (a), (b), (c), and (d), with the necessary modifications, apply to any application for provisional registration under subsection (1).

**27. Decision on application for provisional registration**—(1) The Director-General must consider any application made under section 26 and must identify, in accordance

with section 19 (a), (b), (c), and (d), the risks likely to be caused by provisionally registering the trade name product.

(2) The Director-General must provisionally register the trade name product if—

(a) The registration is to enable the use of the trade name product for the purpose of obtaining further information on the substance and to determine whether or not the trade name product should be registered under section 21; and

(b) The risks of using the trade name product, in the opinion of the Director-General, can be adequately managed by imposing conditions on the registration—

(i) To ensure that neither the trade name product nor any animals, plants, or primary produce to which the trade name product has been applied or exposed are sold, released, or otherwise used for purposes other than those for which the provisional registration has been granted; and

(ii) To ensure that the trade name product and any animals, plants, or primary produce to which the trade name product has been applied or exposed are disposed of in a way that will minimise the risks from the product.

(3) Every trade name product provisionally registered under this section must be registered for a fixed time sufficient only to achieve the purpose of the registration.

(4) The Director-General may extend the time of provisional registration if, in his or her opinion, an extension is necessary to achieve the purpose of the registration.

(5) Every trade name product provisionally registered under this section must be registered with the conditions necessary to achieve the purposes of subsection 2 (a) and (b).

(6) The Director-General may cancel the provisional registration if, in the Director-General's opinion, the risks are not being adequately managed by the conditions imposed.

(7) Where a trade name product contains an agricultural compound that is also a hazardous substance or new organism, the Director-General must not provisionally register that trade name product under this section unless an approval for that substance or organism has been issued under the Hazardous Substances and New Organisms Act 1996.

**28. Codes of practice**—(1) The Director-General may from time to time issue, approve, amend, or revoke codes of practice

for importing, manufacturing, selling, or using any agricultural compound.

(2) Before issuing, approving, amending, or revoking a code of practice, the Director-General must consult with the organisations for the time being recognised by the Director-General as representing the interests of those persons involved in the importation, manufacture, sale, or use of the agricultural compound who will or may be affected by the code of practice.

(3) A failure to comply with subsection (2) does not affect the validity of a code of practice issued or amended under this section, or the validity of a revocation of a code of practice under this section.

(4) Any code of practice issued or approved by the Director-General under subsection (1) may apply to all agricultural compounds, any class or description of agricultural compounds, or any particular agricultural compound.

(5) The Director-General, when issuing, approving, amending, or revoking a code of practice, must—

(a) Notify the issue, approval, amendment, or revocation of the code in the *Gazette*; and

(b) Show in the notice the date of the issue, approval, amendment, or revocation of the code; and

(c) Specify in the notice, the place or places at which copies of the code or the amendment are available for inspection or purchase.

(6) The Director-General must ensure that copies of all codes of practice or amendments to such codes issued or approved under this section are available for inspection at the place or places specified in the notice given under subsection (5).

(7) A code of practice, amendment, or revocation does not have any force or effect under this Act until notified in the *Gazette*.

**29. Reassessment of trade name products**—(1) The Director-General may, after consultation with the registrant, decide to reassess a trade name product registered under section 21 or a group of trade name products registered under section 21 with the same active ingredient and similar formulations if, in the opinion of the Director-General,—

(a) Significant new information on a matter related to the use of the registered trade name product has become available; or

(b) There has been a significant change in the use of any or all of the registered trade name products.

(2) A decision under subsection (1) must be notified to the registrant or registrants and notified in accordance with sections 13 and 14.

(3) A decision under subsection (1) is deemed to be a new application for the trade name product and the provisions of sections 11, 12, and 17 to 25 apply to the application with any necessary modifications.

**30. Reassessment of provisional registration**—(1) The Director-General may, after consultation with the registrant, decide to reassess a trade name product registered under section 27 or a group of trade name products registered under section 27 with the same active ingredient and similar formulations if, in the opinion of the Director-General, significant new information on the provisionally registered trade name product has become available.

(2) A decision under subsection (1) must be notified to the registrant.

(3) A decision under subsection (1) is deemed to be a new application for provisional registration for the trade name product and the provisions of sections 26 and 27 apply to the application with any necessary modifications.

**31. Director-General may prohibit or restrict product**—Where a decision has been made in accordance with section 29 or section 30 to reassess a registered trade name product, the Director-General may, if he or she thinks fit, prohibit or restrict the importation, manufacture, sale, or use of that trade name product until a decision is made under section 21 or section 27.

**32. Meaning of "new information"**—For the purposes of sections 29 and 30, "new information" includes, but is not limited to, information not previously considered by the Director-General during an assessment of the registered trade name product and information indicating that conditions placed on the registered trade name product in accordance with section 23 or section 27 do not adequately manage the risks associated with that trade name product.

**33. No compensation following reassessment**—Where a registered trade name product is reassessed in accordance with section 29 or section 30, no compensation is payable to any person for any loss whatsoever arising out of the reassessment.

**34. Transfer and surrender of registration**—(1) The registration of a trade name product—

(a) May, if the registration is granted under section 21, be transferred by the registrant to any other person; or

(b) May, if the registration is granted under section 21 or section 27, be surrendered by a registrant, by returning the certificate of registration to the Director-General.

(2) Where the registration is transferred under subsection (1)(a), the transfer is not valid until the Director-General has entered the name of the transferee on the register as the registrant.

**35. Rights of registrant**—(1) The provisions of this Act do not give the registrant of a trade name product registered under section 21 the sole right to import, manufacture, sell, or use that trade name product.

(2) The provisions of this Act do give the registrant of a trade name product registered under section 27 the sole right to import, manufacture, sell, or use that trade name product.

## PART 3

### POWERS OF DIRECTOR-GENERAL AND MINISTER

**36. Powers and functions of Director-General**—In addition to any powers and functions given to the Director-General under this Act, the Director-General may—

(a) Encourage and facilitate the reporting by any person of any adverse effects from the use of agricultural compounds:

(b) Disseminate information and advice on agricultural compounds.

**37. Delegation by Director-General**—(1) The Director-General may, in writing, delegate to any person any of his or her functions, powers, or duties under this Act, including the power to hear and decide any application made under section 9 or section 26, on such conditions as the Director-General thinks fit, except this power of delegation.

(2) Every person purporting to act under a delegation under this section is presumed to be acting in accordance with its terms in the absence of evidence to the contrary.

(3) A delegation under this section is revocable at will, and no such delegation prevents the performance or exercise of any function, power, or duty by the Director-General.

(4) Where any decision under section 21 or section 27 is made by any person acting under the delegated authority of the Director-General, the applicant is entitled to have the decision reviewed by the Director-General.

**38. Policy directions**—(1) In the exercise and performance of his or her functions, powers, and duties under this Act, the Director-General must have regard to those policies of government that are applicable to agricultural compounds, and must comply with any general directions relating to that policy given to the Director-General from time to time by notice in writing signed by the Minister.

(2) Where a notice is given to the Director-General under subsection (1), the Minister must, as soon as practicable after the giving of the notice, publish in the *Gazette* and present to the House of Representatives a copy of the notice.

**39. Minister's power to call in applications with significant effects**—(1) Where the Minister considers that the decision on any application under this Act is likely to have—

(a) Significant economic effects; or

(b) Significant effects on New Zealand's international interests or obligations; or

(c) Significant effects in areas where the Director-General lacks expertise,—

the Minister may direct that the Minister will decide the application.

(2) The direction must include the Minister's reasons for giving it.

**40. Notification of Minister's direction**—(1) A direction by the Minister under section 39 is not effective in respect of any application unless the Minister's direction is presented to the House of Representatives not more than 24 working days after receipt of the application.

(2) The Minister must forward a copy of his or her direction to the Board of Inquiry and the applicant.

**41. Board of inquiry**—(1) Where the Minister directs that the Minister will decide any application, the Minister must appoint a board of inquiry to consider that application.

(2) A board of inquiry must—

(a) Comprise no fewer than 3, and no more than 5, members who, in the Minister's opinion, include a balanced

mix of knowledge and experience in matters likely to arise out of the application concerned; and

(b) Have a chairperson appointed either by the Minister or, if the Minister declines to do so, by the members.

(3) Every board of inquiry is a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951 and there may, if the Minister so directs, be paid to any member of a board of inquiry, out of money appropriated by Parliament for the purpose,—

(a) Remuneration by way of fees, salary, or allowances in accordance with that Act; and

(b) Travelling allowances and travelling expenses in accordance with that Act in respect of time spent travelling in the service of such board—

and the provisions of that Act apply accordingly.

**42. Investigation by Board of Inquiry**—(1) On receipt of a direction under section 40 in relation to an application, the Board of Inquiry—

(a) Must notify the application in accordance with sections 13 and 14, unless the application has been notified in accordance with those sections; and

(b) May require additional information under section 11 in relation to the application; and

(c) Must investigate an application made under section 9 having regard to all relevant matters, including matters under sections 19 to 21 and the Minister's reasons for giving the direction under section 39;

(d) Must investigate an application made under section 26 having regard to all relevant matters, including matters under section 27 and the Minister's reasons for giving the direction under section 39.

(2) The provisions of sections 17 to 23 apply with all necessary modifications to an inquiry into an application made under section 9 as if the conduct of the inquiry were the consideration of that application.

(3) The provisions of sections 17, 18, 19 (a), (b), and (c), and 27 apply with all necessary modifications to an inquiry into an application made under section 26 as if the conduct of the inquiry were the consideration of that application.

**43. Board of Inquiry to report to Minister**—(1) On completion of an investigation under section 41, the Board of Inquiry must, as soon as practicable, submit to the Minister a

written report (including recommendations and reasons) on the application referred to it by the Minister.

(2) After receiving a report from the Board of Inquiry, the Minister must ensure that—

(a) A copy of the report is sent to the applicant; and

(b) A copy of the report is sent to every person who made a submission.

**44. Minister to decide application and notify decision**—(1) When considering his or her decision on the application, the Minister must have regard to—

(a) The report and recommendations of the Board of Inquiry; and

(b) The reasons for calling in the application.

(2) The Minister must give his or her decision in writing, including reasons for the decision, and give written notice of the decision to the applicant and every person who made a submission, and give notice of the decision in the *Gazette*.

(3) Every decision made by the Minister under this section may include conditions recommended by the Board of Inquiry under section 23 or section 27, as the case may be, and may include any additional conditions as the Minister thinks fit, and is deemed to be a decision by the Director-General.

## PART 4

### APPEALS

**45. Appeals**—(1) In any case where the Director-General imposes any charge on any person to recover costs where that charge is calculated by the Director-General in the prescribed manner, any person directly affected may appeal against that decision to the District Court.

(2) Subject to subsection (3), the decision of the Court on any appeal under this section is final.

(3) Any party to an appeal under this section may further appeal to the High Court on a question of law.

**46. Appeal on question of law**—(1) Any—

(a) Party to an application for registration under sections 9 and 26; or

(b) Person who made a submission to the Director-General on any application for registration under section 16—

may appeal against the decision of the Director-General to the High Court on a question of law.

(2) Any report and recommendation of the Director-General is deemed to be a decision for the purposes of Part X of the High Court Rules, except to the extent that those rules are inconsistent with sections 47 to 53.

**47. Notice of appeal**—Before or immediately after the filing and service of a notice of appeal, the appellant must serve a copy of the notice on—

(a) The Director-General; and

(b) Every other party to the proceedings; and

(c) Every other person who made a submission to the Director-General.

**48. Right to appear and be heard on appeal**—(1) A party to any proceedings, or any person who made submissions to the Director-General, and who wishes to appear and be heard on an appeal to the High Court, must give notice of his or her intention to appear to—

(a) The appellant; and

(b) The Registrar of the High Court; and

(c) The Director-General.

(2) The notice to appear under subsection (1) must be served within 10 working days after the party or person who made submissions was served with the notice of appeal.

**49. Parties to appeal**—(1) The parties to an appeal before the High Court are the appellant, and any person who gives notice of intention to appear under section 48.

(2) The Registrar of the High Court must ensure that the parties to an appeal before the High Court and the Director-General are served with—

(a) A copy of every document which is filed or lodged with the Registrar of the High Court relating to the appeal; and

(b) Notice of the time and date set down for hearing the appeal.

**50. Orders of High Court**—(1) The High Court may, on application to it or on its own motion, make an order directing the Director-General to lodge with the Registrar of the High Court all or any of the following things:

(a) Anything in the possession of the Director-General relating to the appeal; and

(b) A report recording, in respect of any matter or issue the Court may specify, any of the findings of fact of the Director-General which are not set out in his or her decision or report and recommendation; and

(c) A report setting out, so far as is reasonably practicable and in respect of any issue or matter the order may specify, any reasons or considerations to which the Director-General had regard but which are not set out in his or her decision or report and recommendation.

(2) An application under subsection (1) must be made,—

(a) In the case of the appellant, within 20 working days after the date on which the notice of appeal is lodged; or

(b) In the case of any other party to the appeal, within 20 working days after the date of the service on him or her of a copy of the notice of appeal.

(3) The High Court may make an order under subsection (1) only if it is satisfied that a proper determination of a point of law so requires; and the order may be made subject to such conditions as the High Court thinks fit.

**51. Additional appeals on points of law**—(1) When a party to an appeal, other than the appellant, wishes to contend that the decision or report and recommendation of the Director-General is in error on other points of law, that party may lodge a notice to that effect with the Registrar of the High Court.

(2) The notice under subsection (1) must be lodged within 20 working days after the date on which that respondent is served with a copy of the notice of appeal.

(3) Sections 47 to 49 apply to a notice lodged under subsection (1), with all necessary modifications.

**52. Extension of time**—On the application of a party to an appeal, the High Court may extend any periods of time stated in sections 48 and 51.

**53. Date of hearing**—When a party to an appeal notifies the Registrar of the High Court—

(a) That the notice of appeal has been served on the Director-General and all parties to the proceedings; and

(b) Either—

(i) That no application has been lodged under section 50; or

(ii) That any application lodged under section 50 has been complied with,—

the appeal is ready for hearing and the Registrar must arrange a hearing date as soon as practicable.

**54. Appeals to Court of Appeal**—Section 144 of the Summary Proceedings Act 1957 applies in respect of a decision of the High Court under section 46 of this Act as if the decision had been made under section 107 of the Summary Proceedings Act 1957.

## PART 5

### OFFENCES

**55. Offences**—(1) Every person commits an offence against this Act who—

(a) Knowingly uses any agricultural compound in contravention of this Act; or

(b) Knowingly sells any agricultural compound in contravention of this Act; or

(c) Knowingly contravenes any conditions which apply to any trade name product registered under section 21 or section 27; or

(d) Knowingly contravenes any conditions which apply to any agricultural compound exempt from registration by regulations made under section 75; or

(e) Knowingly sells any animal, plant, or primary produce that has been treated with, or exposed to, any agricultural compound that is not imported, manufactured, sold, or used in accordance with the provisions of this Act; or

(f) Knowingly makes a false representation that any agricultural compound is registered as a trade name product in accordance with section 21 or section 27 or is an agricultural compound and is exempt from registration in accordance with regulations made under section 75; or

(g) Knowingly possesses any agricultural compound which has not been cleared for entry into New Zealand in accordance with section 6; or

(h) Knowingly contravenes or knowingly permits a contravention of a prohibition notice issued in accordance with section 65; or

(i) Knowingly contravenes an order given in accordance with section 64 (2) (d).

(2) Every person commits an offence against this Act who—

(a) Knowingly supplies false or misleading information to an inspector or authorised person under this Act; or

(b) Knowingly supplies false or misleading information in support of an application under this Act; or

(c) Personates or falsely represents himself or herself to be an inspector, authorised person, or accredited person; or

(d) Without reasonable excuse obstructs or hinders an inspector, authorised person, or accredited person in the execution of any powers conferred on that person by or under this Act; or

(e) Interferes with any samples taken or tests carried out for the purposes of this Act.

(3) Every veterinarian commits an offence who knowingly fails to provide any client with information to prevent the occurrence, in any primary produce from any animal treated with an agricultural compound, of residues of that compound which contravene any requirements of the Dairy Industry Act 1952, the Meat Act 1981, or the Food Act 1981 or any regulations or notices in force under those Acts.

(4) Every person commits an offence against this Act who—

(a) Contravenes any provision of any regulations made under this Act:

(b) Contravenes any provision of sections 98, 99, 100, 102, 114, 116, and 117.

(5) Notwithstanding anything in the Summary Proceedings Act 1957, any information in respect of any offence against this section may be laid by any person at any time within 2 years after the time when the matter of the information arose.

**56. Penalties**—(1) Every person who commits an offence against subsection (1) of section 55 is liable on summary conviction,—

(a) In the case of a natural person, to a fine not exceeding $30,000:

(b) In the case of a corporation, to a fine not exceeding $150,000.

(2) Every person who commits an offence against any provision of subsections (2) and (3) of section 55 is liable on summary conviction,—

(a) In the case of a natural person, to a fine not exceeding $15,000:

(b) In the case of a corporation, to a fine not exceeding $75,000.

(3) Subject to subsection (4), every person who commits an offence against subsection (4) of section 55 is liable on summary conviction to a fine not exceeding $5,000.

(4) Where a fine is prescribed by any regulations continued in force by section 110 or section 122 as the penalty that may be imposed for any offence, the fine so prescribed and not the fine prescribed by subsection (3) is the penalty that may be imposed for the offence.

(5) Where any person is convicted of an offence against this Act, the Court may, instead of or in addition to any fine, order the forfeiture of any trade name product, any agricultural compound, or any substance, mixture of substances, or biological compound used or intended for use as an agricultural compound, in the possession of that person.

**57. Revocation of registration**—When a registrant or an agent of a registrant is convicted of an offence against this Act, the Court may, instead of or in addition to a fine, revoke any registration held by that registrant of any trade name product.

**58. Liability of employers and principals**—(1) Subject to subsection (3), where any offence is committed against this Act by a person as the employee of another person, that offence must, for the purposes of this Act, be treated as committed by that other person as well as by the first-mentioned person, whether or not it was done with that other person's knowledge or approval.

(2) Where an offence is committed against this Act by a person acting as the agent of another person, that offence must, for the purposes of this Act, be treated as committed by the principal unless it is done without the principal's express or implied authority.

(3) In any proceedings for an offence against this Act against any person in respect of any offence alleged to have been committed against this Act by an employee of that person, it is a defence for that person to prove,—

(a) In the case of a natural person, that—

(i) He or she did not know nor could reasonably be expected to have known that the offence was to be or was being committed; or

(ii) He or she took such steps as were reasonably practicable to prevent the commission of the offence—

and that he or she took such steps as were reasonable in all the circumstances to mitigate or remedy the effects of the action or event after it occurred:

(b) In the case of a body corporate, that—

(i) Neither the directors nor any person involved in the management of the body corporate knew, or could reasonably be expected to have known, that the offence was to be or was being committed; and

(ii) The body corporate took such steps as were reasonable in all the circumstances to mitigate or remedy the effects of the action or event after it occurred.

**59. Liability of directors and officers of bodies corporate**—Where any body corporate is convicted of an offence against this Act, every director and every person concerned in the management of the body corporate is guilty of the like offence if it is proved—

(a) That the act that constituted the offence took place with his or her authority, permission, or consent; and

(b) That he or she could reasonably have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

**60. Appointment of inspectors**—(1) The Director-General may from time to time appoint persons as inspectors for the purposes of administering and enforcing the provisions of this Act.

(2) An inspector may be authorised, on his or her appointment, to exercise all of the powers and functions conferred on inspectors under this Act, or only those powers and functions specified in his or her certificate of appointment, or subsequently by written notice to the inspector.

(3) Inspectors must be persons employed under the State Sector Act 1988.

(4) The Director-General may from time to time establish performance standards and technical standards for inspectors; and every inspector, when performing his or her functions, powers, or duties under this Act, must use his or her best endeavours to comply with and give effect to the relevant performance standards or technical standards.

(5) The Director-General may suspend or revoke any appointment made under this section at any time.

**61. Appointment of authorised persons**—(1) The Director-General may from time to time appoint persons as authorised persons to exercise the powers set out in sections 64 to 67 in respect of those functions specified in their certificates of appointment or subsequently by written notice.

(2) The appointment of an authorised person under this section can be made only if that appointee has, in the opinion of the Director-General, the experience, technical competence, and qualifications to undertake the functions specified in the certificate of appointment.

(3) Every person appointed under this section must comply with any lawful written direction or written instruction given by the Director-General in relation to the exercise and performance of the functions, powers, and duties conferred or imposed on authorised persons by this Act.

(4) Persons appointed under this section may, but need not, be persons who are employed under the State Sector Act 1988.

(5) The Director-General may from time to time establish performance standards and technical standards for authorised persons; and every authorised person, when performing his or her functions, powers, or duties under this Act, must use his or her best endeavours to comply with, and give effect to, the relevant performance standards or technical standards.

(6) The Director-General may suspend or revoke any appointment made under this section at any time.

**62. Appointment of accredited persons**—(1) The Director-General may accredit persons to carry out specified functions required under this Act.

(2) The accreditation of a person under this section can be made only if that person has, in the opinion of the Director-General, the experience, technical competence, and qualifications to undertake the functions specified in the certificate of appointment.

(3) Every person accredited under this section must comply with any lawful direction or instruction given by the Director-General in relation to the exercise and performance of the functions, powers, and duties conferred or imposed on accredited persons by the Director-General under subsection (1).

(4) Persons accredited under this section may, but need not, be persons who are employed under the State Sector Act 1988.

(5) The Director-General may from time to time establish performance standards and technical standards for accredited

persons; and every accredited person, when performing his or her functions, powers, or duties under this Act, must use his or her best endeavours to comply with and give effect to the relevant performance standards or technical standards.

(6) The Director-General may suspend or revoke any accreditation given under this section at any time.

**63. Protection of inspectors, authorised persons, and accredited persons**—No action or proceedings may be brought against any inspector, authorised person, or accredited person in respect of any actions taken by any such inspector, authorised person, or accredited person under this Act unless he or she has acted in bad faith or without reasonable cause.

**64. Powers of entry for inspection**—(1) Any inspector or authorised person may enter any place, go on, into, under, and over any place (except a dwellinghouse or marae) for the purpose of inspection to determine whether or not any person is complying with this Act.

(2) For the purposes of subsection (1), an inspector or authorised person may—

(a) Open containers and packages and inspect the contents:

(b) Request, gather, or secure evidence, take samples of agricultural compounds, water, air, soil, or any substance, take samples from any animals, plants, and primary produce, and test or analyse or arrange for the testing and analysis of such samples:

(c) Inspect, inquire about, or copy any documents or other records including records in an electronic form relating to the obligations imposed under this Act, and remove any documents or other records including records in an electronic form from the place for the purposes of copying such documents or records:

(d) Order the person in charge of the place to identify and hold any agricultural compound for up to 5 working days.

(3) Every inspector or authorised person exercising any of the powers conferred by this section must, at the time of exercising that power and thereafter on request, produce—

(a) Evidence of that person's appointment as an inspector or authorised person; and

(b) Evidence of that person's identity.

(4) An inspector or authorised person may take any person on to the place to assist him or her with the inspection.

(5) Nothing in this section limits or affects the privilege against self incrimination.

**65. Inspectors or authorised persons may issue prohibition notices**—(1) Any inspector or authorised person who has reasonable grounds to believe that any person manufacturing, selling, or using any agricultural compound is acting in contravention of any provision of this Act, or any conditions on the registration of a trade name product, may give written notice to that person prohibiting the manufacture, sale, or use of that product or that agricultural compound by that person until such time as the contravention of the Act is rectified to the satisfaction of the inspector or authorised person.

(2) A prohibition notice issued under subsection (1) must specify the contravention to which it relates, the action required to remedy the contravention, and the prohibition placed upon the manufacture, sale, or use of a trade name product or an agricultural compound.

(3) A prohibition notice issued under subsection (1) may be issued subject to such conditions as the person issuing it considers appropriate.

**66. Compliance with prohibition notices**—Every person to whom a prohibition notice is given must ensure that no action is taken in contravention of it.

**67. Matters may be completed by different inspectors or authorised persons**—If an inspector or authorised person has issued a prohibition notice under section 65, any inspector or authorised person may—

(a) Take further steps on or in relation to it; or

(b) Revoke or withdraw it; or

(c) From time to time vary it; or

(d) Revoke, or from time to time vary, any condition to which it is subject.

**68. Appeals against prohibition notices**—(1) Any person affected by a prohibition notice issued under section 65, or any variation of that notice, may, within 14 days after the notice being issued or the variation being given, appeal against it to a District Court on the grounds that it is unreasonable.

(2) The Court must inquire into the circumstances of the prohibition notice or variation, and may vary, rescind, or confirm it.

(3) An appeal against a prohibition notice, or variation of that notice, does not operate as a stay of the notice or variation.

**69. Issue of search warrants**—(1) Any District Court Judge or Justice of the Peace or any Registrar who is satisfied, on application in writing made on oath, that there are reasonable grounds for believing that there is in, on, under, or over any place (including any dwellinghouse or marae)—

(a) Any agricultural compound, substance, mixture of substances, or biological compound that is evidence of an offence committed against section 55 (1):

(b) Any agricultural compound, substance, mixture of substances, or biological compound used or intended to be used as an agricultural compound that has been abandoned:

(c) Any documents or other records or things which there are reasonable grounds to believe may be evidence of the commission of any offence under this Act to which paragraph (a) or paragraph (b) applies,—

may issue a search warrant in the form set out in Schedule 1.

(2) Every search warrant must be directed either to a member of the Police by name or to every member of the Police or to any inspector by name, but in any of those cases, the warrant may be executed by any member of the Police.

(3) On issuing a warrant, the Judge, Justice of the Peace, or Registrar may impose such reasonable conditions on its execution as he or she thinks fit.

(4) Any member of the Police or any inspector may call any person to assist him or her in the execution of a search warrant.

**70. Powers of entry with warrant**—(1) Every warrant, subject to any conditions imposed under subsection (3), authorises the member of the Police or the inspector who is executing it and any person called on by that member or inspector to assist—

(a) To enter the place, dwellinghouse, or marae on one occasion within 14 days after the date of the issue of the warrant at any time that is reasonable in the circumstances; and

(b) To use such force, both for making entry (either by breaking open doors or otherwise) and for breaking open anything on the place, dwellinghouse, or marae, as is reasonable in the circumstances; and

(c) To search for and seize—

(i) Any agricultural compound, any trade name product, or substance, mixture of substances, or biological compound used or intended to be used as an agricultural compound found on the place, dwellinghouse, or marae where it is suspected on reasonable grounds to be evidence of an offence committed against section 55 (1):

(ii) Any documents or other records or things which there are reasonable grounds to believe may be evidence of the commission of any offence against this Act; and

(d) To take any photographs, and make any drawings, of any structure, container, packaging, or label, or any other thing where there are reasonable grounds to believe that the structure, container, packaging, or label or other thing is in breach of the provisions of this Act or regulations; and

(e) To seize and detain any trade name product or any agricultural compound imported in breach of the provisions of this Act; and

(f) To seize and detain any trade name product or any agricultural compound that—

(i) Is a risk to agricultural security, trade in primary produce, or market access for primary produce containing that compound, the welfare of animals, or domestic food residue standards; and

(ii) Appears to an inspector, who has made such inquiries as appear reasonable in the circumstances, to have been abandoned or have no apparent or readily identifiable owner.

(2) Any member of the Police or inspector who executes a search warrant must carry the warrant with him or her, and produce it for inspection—

(a) On first entering the place, dwellinghouse, or marae, to the person appearing to be in charge of the place, dwellinghouse, or marae; and

(b) Whenever subsequently required to do so, on the place, dwellinghouse, or marae, by any other person appearing to be in charge of the place,

dwellinghouse, or marae or any part of the place, dwellinghouse, or marae.

(3) Where the occupier of the place, dwellinghouse, or marae is not present at the time the search warrant is executed, the member of the Police or inspector must leave in a prominent place on the place, dwellinghouse, or marae a written statement of the time and date of the search, and the name of the member of the Police or inspector, and the address of the police station or other office to which enquiries should be made.

(4) Where any trade name product, any agricultural compound, trade name products, substance, mixture of substances, or biological compound, or books, documents, or other records or things is, or are, seized in execution of a search warrant, the member of the Police or inspector executing the warrant must leave in a prominent place on the place, dwellinghouse, or marae or send to the occupier, within 10 working days after the search, a written inventory of all things so seized.

(5) Where any action is taken under a warrant in, on, under or over a dwellinghouse, or marae, that action must be taken in the presence of a member of the Police.

**71. Disposal of property seized**—(1) Except as provided in subsection (2) of this section, section 199 of the Summary Proceedings Act 1957 applies to any property seized by any member of the Police and, with the necessary modifications, to any property seized by any inspector.

(2) If proceedings for an offence relating to the property seized are not brought within a period of 6 months after the date of seizure, any person claiming to be entitled to the thing may, after the expiration of that period, apply to a District Court Judge for an order that it be delivered to him or her; and on any such application the District Court Judge may adjourn the application, on such terms as he or she thinks fit, for the proceedings to be brought, or may make any order that a Court may make under section 199 (3) (a) of the Summary Proceedings Act 1957.

(3) Where any agricultural compound or trade name product is seized under section 70 (1) (f) (ii), and no person is charged with an offence under this Act or applies to have the agricultural compound or trade name product returned, the agricultural compound or trade name product must be disposed of as directed by the Director-General.

## PART 6

### PROTECTION OF CERTAIN CONFIDENTIAL INFORMATION ABOUT INNOVATIVE AGRICULTURAL COMPOUNDS

**72. Interpretation**—In this Part, unless the context otherwise requires,—

"Application" means an application for registration of an agricultural compound under section 9 or for provisional registration of an agricultural compound under section 26:

"Confidential information" includes—

(a) Trade secrets; and

(b) Information that has commercial value that would be, or would be likely to be, diminished by disclosure:

"Confidential supporting information" means confidential information given—

(a) In, or in relation to, an innovative agricultural compound application; and

(b) About the agricultural compound that is or was, as the case may be, the subject of that application:

"Ingredient" includes a chemical or biological entity:

"Innovative agricultural compound application" means an application that refers to an active ingredient—

(a) That is an active ingredient of the trade name product to which the application relates; and

(b) That has not, before that application is received by the Director-General, been referred to in any other application (except an application by the applicant for provisional registration under section 26 or an application by the applicant for an experimental use permit under the Pesticides Act 1979) as an active ingredient of—

(i) A trade name product; or

(ii) A pesticide under the Pesticides Act 1979; or

(iii) An animal remedy under the Animal Remedies Act 1967:

"Protected period" means, in relation to confidential supporting information relating to an innovative agricultural compound application, a period commencing on the date that information is received by the Director-General and ending,—

(a) Where—

(i) The Director-General has either registered the agricultural compound under section 21, or refused to grant such registration, in relation to the agricultural compound that is the subject of the innovative agricultural compound application; and

(ii) The date of that issue or refusal is not more than 5 years after the Director-General received an application in relation to that agricultural compound,—

on the date 5 years after the date of that registration or refusal; or

(b) In any other case, on the date 5 years after the innovative agricultural compound application to which that information relates is or was, as the case may be, received by the Director-General:

"WTO country" means a country that is a party to the Agreement establishing the World Trade Organisation adopted at Marrakesh on the 15th day of April 1994.

**73. Protection of confidential supporting information about innovative agricultural compounds**—Where the Director-General receives an innovative agricultural compound application and confidential supporting information, the Director-General, during the protected period in relation to that confidential supporting information,—

(a) Must take reasonable steps to ensure that that confidential supporting information is kept confidential to the Director-General; and

(b) Must not use that confidential supporting information for the purposes of determining whether to grant any other application.

**74. Circumstances where protection under section 73 does not apply**—(1) Notwithstanding section 73, the Director-General may, during the protected period in relation to confidential supporting information,—

(a) Disclose that confidential supporting information, or use that confidential supporting information for the purposes of determining whether to grant any application other than the application to which it relates or related, as the case may be,—

(i) With the consent of the applicant who made the application to which the confidential supporting information relates or related; or

(ii) If that disclosure or use is, in the opinion of the Director-General, necessary to protect the health or safety of members of the public; or

(b) Disclose that confidential supporting information to—

(i) A government department or statutory body for the purposes of that government department or statutory body; or

(ii) An advisor for the purposes of obtaining advice about the agricultural compound to which the information relates,—

if, in the opinion of the Director-General, the government department, statutory body, or advisor, as the case may be, will take reasonable steps to ensure that information is kept confidential; or

(c) Disclose that confidential supporting information to—

(i) The World Health Organisation:

(ii) The Office International des Epizooties:

(iii) The Food and Agriculture Organisation:

(iv) A regulatory agency of a WTO country:

(v) A person or organisation, or a person or organisation within a class or classes of persons or organisations specified in regulations,—

if in the opinion of the Director-General, those persons, agencies, or organisations, as the case may be, will take reasonable steps to ensure that information is kept confidential.

(2) The power to grant consent under subparagraph (i) of subsection (1) (a) may be exercised by a person other than the applicant referred to in that subparagraph if—

(a) That applicant—

(i) Has notified the Director-General in writing that that other person may grant that consent; and

(ii) Has not notified the Director-General in writing that that person's authority to grant that consent has been withdrawn; or

(b) That applicant's rights in respect of the relevant confidential supporting information have been transferred to that person and the applicant or that person has notified the Director-General in writing of the transfer.

## PART 7

### MISCELLANEOUS PROVISIONS

**75. Regulations**—(1) Subject to section 78, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) Prescribing substances, mixtures of substances, biological compounds, or any class or group of substances, mixtures of substances, or biological compounds which may, subject to the prescribed conditions (including, but not limited to, conditions that an importer, manufacturer, seller, or user must comply with a code of practice issued or approved in accordance with section 28) be imported, manufactured, sold, or used as an agricultural compound without registration under section 21 or section 27:

(b) Prescribing substances or classes or group of substances which must be notified to the Director-General before importation, manufacture, sale, or use as an agricultural compound:

(c) Prescribing records, returns, or information which any person or class of persons may be required to keep or to report to the Director-General on agricultural compounds exempt from registration under section 21 or section 27 by regulations made under this section:

(d) Prescribing consumer information requirements for agricultural compounds and procedures for the Director-General to certify any consumer information requirements provided by suppliers of the compounds, as providing adequate information:

(e) Prescribing requirements for testing of products and auditing of quality assurance systems:

(f) Prescribing substances which are prohibited from use as agricultural compounds or as ingredients in agricultural compounds:

(g) Prescribing standards of quality, purity, and potency for any agricultural compound, systems to ensure the quality, purity, and potency of agricultural compounds, and requirements for testing agricultural compounds to ensure that they comply with prescribed standards and requirements:

(h) Prescribing countries for the purposes of section 23 and subsection (3):

(i) Prescribing persons, organisations, or classes of persons or organisations for the purposes of section 74 (1) (c):

(j) Providing for such other matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

(2) Where the importer, manufacturer, seller, or user of any agricultural compound being imported into, manufactured in, sold, or used in New Zealand is required to notify the Director-General of that compound by regulations made under subsection (1), the importer, manufacturer, seller, or user must supply the prescribed information within 20 working days after the date on which the regulations come into force.

(3) The Minister must, when recommending conditions in accordance with this section, take into account conditions imposed in any prescribed countries on the same substances, mixtures of substances, biological compounds, or class or group of substances.

(4) Before recommending the making of an Order in Council under subsection (1) (d), the Minister must be satisfied that there is likely to be an adverse economic result and the agricultural compound is being sold—

(a) Without an adequate description of the contents; or

(b) Consistently and significantly below the contents described in consumer information.

**76. Recommendation of Order in Council**—The Minister must recommend the making of an Order in Council under section 75 (1) (a) if the Minister considers—

(a) That the likely cost of assessing and registering an agricultural compound as a trade name product is greater than the likely risks from the use of that agricultural compound without registration; or

(b) The likely risks of that substance, mixture of substances, or biological compound if used as an agricultural compound are already adequately managed by restrictions placed on that substance, mixture of substances, or biological compound under any other Act.

**77. Warranties**—The registration of any trade name product under section 21 or section 27, or the exemption of any agricultural compound from registration by regulations

made under section 75, does not imply a warranty by the Crown or the Director-General that the trade name product or agricultural compound is reasonably fit for the purpose for which it is sold, or that the agricultural compound complies with any labelling or other consumer information relating to that compound.

**78. Consultation before making of Orders in Council**—(1) Before making any recommendation for the purpose of making any Order in Council under section 75 or section 81, the Director-General must—

(a) Do everything reasonably practicable on his or her part to consult with the organisations for the time being recognised by the Director-General as representing the interests of persons involved in the importation, manufacture, sale, or use of the agricultural compound or compounds who will or may be affected by any Order in Council made in accordance with the recommendation, of the proposed terms of the Order in Council; and

(b) Advise the Minister of the results of any such consultation,—

and the Minister must take into account the results of that consultation.

(2) Subsection (1) does not apply in respect of any Order in Council if the Minister considers it desirable in the public interest that the Order in Council be made urgently.

(3) A failure to comply with subsection (1) does not affect the validity of any Order in Council made under this Act.

**79. Relationship to other Acts**—Nothing in this Act affects the requirements of the Dairy Industry Act 1952, the Animals Protection Act 1960, the Misuse of Drugs Act 1975, the Wild Animal Control Act 1977, the Food Act 1981, the Meat Act 1981, the Medicines Act 1981, the Biosecurity Act 1993, or the Hazardous Substances and New Organisms Act 1996 in relation to any substance, mixture of substances, or biological compound.

**80. Correction of errors**—Where any mistake exists in the register or in any other document made or issued under this Act, the Director-General may correct the mistake; and, for that purpose, may require the registrant to produce the

certificate of registration or any other document held by the registrant.

**81. Regulations prescribing fees and charges**—(1) The Governor-General may from time to time, by Order in Council, make regulations prescribing or providing for fees and charges payable in respect of the exercise or performance of any of the functions, powers, or duties under this Act.

(2) Any such regulations may—

(a) Specify the persons by whom any fees and charges so prescribed or fixed are payable; and

(b) Prescribe the matters for which direct and indirect costs may be recovered; and

(c) Prescribe a scale of fees and charges or a rate based on the time involved in carrying out the function, power, or duty; and

(d) Prescribe a scale of fees and charges or a fee and charge for a prescribed function, power, or duty; and

(e) Prescribe a formula for fixing fees and charges; and

(f) Prescribe an annual fee or charge or classes of fees or charges payable by the registrants of a trade name product; and

(g) Prescribe the time of payment of fees and charges, the means of collection of fees and charges, and the person who is responsible for paying a fee or charge.

(3) Any regulations made under subsection (1) may fix the fees or prescribe the scale or formula for fixing fees and charges so as to recover—

(a) The actual and reasonable costs of carrying out any specified action:

(b) The actual and reasonable costs of carrying out any specified class of actions for a specified period of time and, where applicable,—

(i) Increase the costs by an amount sufficient to recover the difference between the costs incurred in a previous specified period and the costs recovered, where the costs recovered were less than the costs incurred; or

(ii) Reduce the costs by an amount sufficient to refund the difference between the costs incurred in a previous specified period and the costs recovered, where the costs recovered were more than the costs incurred.

(4) The Director-General may estimate the total fees and charges payable in accordance with regulations made under subsection (1) and may require the person who is liable to pay the fees and charges to pay some or all of those fees and charges in advance, and need not perform any actions to which the fee and charge relates until the amount required to be paid has been paid to the Director-General in full. Any such estimate may from time to time be amended.

(5) The Director-General may, as he or she thinks fit, refund or waive any fee and charge prescribed in regulations made under subsection (1) in whole or in part in any case or class of cases including, but not limited to, any functions, powers, or duties carried out under Part 2.

**82. Prohibition of importation or manufacture by registrant for non-payment of fees**—(1) Where the registrant of a trade name product is liable, in accordance with regulations made under section 81, to pay any fee or charge in respect of that trade name product and that fee or charge remains unpaid after the expiration of time provided by section 18 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995, the registrant is, in addition to any other penalty payment imposed by this or any other Act, prohibited from importing or manufacturing the trade name product while the debt and any penalty payment remains unpaid.

(2) The Director-General may waive a prohibition imposed in accordance with this section if he or she thinks fit.

**83. Debt due to the Crown**—Any final fee and charge payable in accordance with this Act or regulations made under this Act by any person in respect of the completed exercise or performance of any action by the Director-General must, until paid in full and remitted to the Crown, constitute a debt due to the Crown and may be recovered in any Court of competent jurisdiction.

**84. Amendment of Schedule 1**—The Governor-General may from time to time, by Order in Council, amend the form set out in Schedule 1 or revoke that form and substitute a new form.

**85. Amendments to other Acts**—The enactments specified in Schedule 2 are amended in the manner indicated in that Schedule.

**86. Repeals and revocations**—(1) The enactments specified in Schedule 3 are repealed.

(2) The regulations and orders specified in Schedule 4 are revoked.

## PART 8

## TRANSITIONAL PROVISIONS

### *General*

**87. Interpretation**—In this Part, unless the context otherwise requires,—

"Animal remedy" or "remedy" means any drug, medicine, remedy, or therapeutic preparation, or any biochemical substance, which is manufactured, imported, or advertised for sale or is sold for any of the following purposes:

(a) Testing any animals in relation to any disease; or

(b) Curing, diagnosing, treating, controlling, or preventing any disease in animals; or

(c) Destroying or preventing parasites on or in animals; or

(d) Maintaining or improving the health, condition, or productivity of any animal; or

(e) Capturing or immobilising any animal;—

but does not include any preparation, substance, or product which is used primarily as a food for animals:

"Authority" has the same meaning as in section 2 of the Hazardous Substances and New Organisms Act 1996:

"Board" means the Animal Remedies Board constituted under the Animal Remedies Act 1967 and continued in existence under section 96 of this Act:

"Container" includes anything in or by which an animal remedy may be cased, covered, enclosed, contained, or packed; and, in the case of any animal remedy sold or carried or intended for sale in more than one container, includes every such container:

"Label", in relation to any animal remedy or any container used to contain an animal remedy, means any written, pictorial, or other descriptive matter under which the remedy is sold or to be sold and

which purports to give any information about the remedy:

"Licence" means a licence issued by the Board under this Part, or a licence issued under the Animal Remedies Act 1967 and continued under section 94 of this Act, to any person to manufacture or import the animal remedy named in it; and "licensee" and "licensed" have corresponding meanings:

"Manufacture",—

(a) In relation to a pesticide, means to pack the pesticide or cause it to be packed for sale; or

(b) In relation to an animal remedy, means to make up, prepare, produce, or process the remedy; and includes the packing of a remedy in any container for sale:

"Manufacturer", in relation to a pesticide, means the person who, as owner, manufactures the pesticide:

"Pesticide" means any substance to which section 112 applies:

"Proprietor" means,—

(a) In relation to a pesticide manufactured in New Zealand, the manufacturer of the pesticide; and

(b) In relation to a pesticide manufactured elsewhere, the importer of the pesticide:

"Use", in relation to any animal remedy, includes—

(a) Applying the remedy to an animal externally:

(b) Feeding the remedy to an animal orally:

(c) Mixing the remedy with any food provided for an animal:

(d) Providing an animal with the remedy in order that it may be consumed by the animal:

(e) Drenching an animal with the remedy:

(f) Injecting the remedy into an animal by any route or means whatsoever:

"Veterinary consultation", in relation to the administration, prescribing, or dispensing of any prescription animal remedy by a veterinary surgeon to or in respect of any animal, means—

(a) An examination of that animal by that veterinary surgeon; or

(b) The obtaining by that veterinary surgeon of sufficient information about that animal, being an animal in the immediate care of that veterinary surgeon, to enable that veterinary surgeon to make

an informed decision with respect to the administration, dispensing, or prescribing of a prescription animal remedy to or in respect of that animal:

"Veterinary surgeon" means a person for the time being registered as a veterinary surgeon under the Veterinarians Act 1994.

**88. Regulations relating to transitional provisions**—Without limiting the provisions of section 75, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) Providing that any animal remedy licensed under the Animal Remedies Act 1967 or licensed in accordance with section 93—

(i) Is no longer licensed in accordance with the Animal Remedies Act 1967 or section 93; and

(ii) Is deemed to have been registered as a trade name product by the Director-General under Part 2, with the conditions specified in the regulations:

(b) Providing that any pesticide—

(i) Is no longer subject to sections 112 to 122; and

(ii) Is deemed to have been registered as a trade name product by the Director-General under Part 2, with the conditions specified in the regulations:

(c) Providing that any fertiliser registered under the Fertilisers Act 1960 or registered in accordance with section 91 is—

(i) No longer registered in accordance with the Fertilisers Act 1960 or section 91; and

(ii) Is deemed to have been registered by the Director-General under Part 2 of this Act, with the conditions specified in the registration:

(d) Providing that any substance, mixture of substances, or biological compound used as an agricultural compound at the commencement of this Act but not subject to the provisions of the Fertilisers Act 1960, the Animal Remedies Act 1967, or the Pesticides Act 1979 is deemed to be registered under Part 2, with the conditions specified in the regulations:

(e) Amending or revoking any of the regulations specified in Schedule 5.

**89. Transitional provisions for certain agricultural compounds in use at commencement of Act**—Where, at the date of commencement of this Act, any substance, mixture of substances, or biological compound was sold or used as an agricultural compound, but was not subject to the provisions of the Fertilisers Act 1960, the Animal Remedies Act 1967, or the Pesticides Act 1979, that substance, mixture of substances, or biological compound may continue to be sold or used as an agricultural compound—

(a) Until registered as a trade name product in accordance with regulations made under section 88; or

(b) Until exempt from registration as an agricultural compound in accordance with regulations made under section 75; or

(c) For a period of 3 years from the date of commencement of this Act,—

whichever is the earliest.

**90. Transitional provisions for inspectors**—Every person who, immediately before the commencement of this Act, held office as an inspector under the Animal Remedies Act 1967 or the Pesticides Act 1979 is deemed to have been appointed as an inspector under section 60.

**91. Application for registration made before commencement of Act**—(1) Where, before the date of commencement of this Act, any person had made an application for registration under section 5 of the Fertilisers Act 1960, and no decision had been made to grant or refuse the application, that application is continued and determined in all respects under the Fertilisers Act 1960, including any rights of appeal under section 10 of that Act.

(2) Any fertiliser registered in accordance with subsection (1) may be sold or used as an agricultural compound in accordance with the terms and conditions of the registration—

(a) For a period of 3 years from the date on which the registration was granted; or

(b) Until the fertiliser is deemed to be registered in accordance with regulations made under section 88; or

(c) Until the fertiliser is exempt from registration in accordance with regulations made under section 75,—

whichever is the earliest.

**92. Continuation of registration**—Where, before the date of commencement of this Act, a fertiliser was registered under the Fertilisers Act 1960, that fertiliser may continue to be sold or used as a fertiliser—

(a) For a period of 3 years from the date of commencement of this Act; or

(b) Until the fertiliser is deemed to be registered in accordance with regulations made under section 88; or

(c) Until the fertiliser is exempt from registration in accordance with regulations made under section 75,—

whichever is the earliest.

*Animal Remedies*

**93. Applications for licences made before commencement of Act**—(1) Where, before the date of commencement of this Act, any person had made an application for a licence under section 19 of the Animal Remedies Act 1967, and no decision had been made to grant or refuse the application, that application must be continued and determined in all respects under the Animal Remedies Act 1967, including any rights of appeal under section 34 of that Act and any rehearing under section 35 of that Act, as if this Act had not been enacted.

(2) The holder of any licence granted in accordance with subsection (1) may import, or manufacture, and sell the animal remedy in accordance with the terms and conditions of the licence—

(a) Until the licence expires in accordance with the terms and conditions specified in the licence; or

(b) For a period of 3 years from the date on which the licence was granted, if the licence was granted under section 24 of the Animal Remedies Act 1967 and the licence does not include an expiry date; or

(c) Until the animal remedy is registered in accordance with regulations made under section 88,—

whichever is the earliest.

**94. Continuation of licences**—(1) Where, before the date of commencement of this Act, the importation or manufacture of any animal remedy was licensed under section 21 of the Animal Remedies Act 1967, the holder of the licence may import, or manufacture, and sell that animal remedy until the

animal remedy is registered in accordance with regulations made under section 88.

(2) Where, before the date of commencement of this Act, the importation or manufacture of any animal remedy was licensed under section 24 of the Animal Remedies Act 1967, the holder of the licence may import, or manufacture, and sell that animal remedy in accordance with the terms and conditions of the licence—

(a) Until the licence expires in accordance with the terms and conditions specified in the licence; or

(b) For a period of 3 years after the date on which the licence was granted if the licence does not include an expiry date; or

(c) Until the animal remedy is registered in accordance with regulations made under section 88,—

whichever is the earliest.

**95. Exemption from Act**—Where, before the date of commencement of this Act, any animal remedy was exempt from the provisions of the Animal Remedies Act 1967 in accordance with a notice given under section 3 (1) of that Act, the provisions of that notice continue to apply with any necessary modifications for 3 years from the date of commencement of this Act.

**96. Continuation of Animal Remedies Board**—(1) Notwithstanding the repeal of the Animal Remedies Act 1967, the Board continues to exist in accordance with this section for 3 years after the date of commencement of this Act or until such earlier date as the Governor-General may fix by Order in Council.

(2) A date may be fixed in accordance with subsection (1) only when the Board has completed its functions in accordance with section 93.

(3) Where the Board ceases to exist 3 years after the date of commencement of this Act and has not completed its functions in accordance with section 93, those matters still to be completed may be referred to the Director-General who must continue and complete the matters as if he or she were the Board; and the provisions of section 93 apply with any necessary modifications.

(4) The Board—

(a) Continues to consist of the members holding office under section 5 of the Animal Remedies Act 1967

immediately before the commencement of this Act; and

(b) Has the function of considering and determining applications made under section 19 of the Animal Remedies Act 1967 before the date of commencement of this Act; and

(c) Has all such powers, rights, authorities, and privileges (including the right to delegate any of its powers to any person) as may be reasonably necessary or expedient to enable the Board to carry out its functions.

(5) No member of the Board is entitled to any money or other benefit by way of compensation, or a claim for loss of remuneration, or reimbursement of expected allowances, arising out of the abolition of the Board.

**97. Registrar of Animal Remedies**—(1) The person appointed as Registrar of Animal Remedies under section 15 of the Animal Remedies Act 1967 and holding office immediately before the commencement of this Act continues in office until the Board ceases to exist in accordance with section 96.

(2) The Registrar has such powers, functions, and duties which he or she had under the Animal Remedies Act 1967 as are necessary for the purposes of this Part.

**98. Prescription animal remedies**—(1) The Director-General may at any time, by notice in writing to the holder of any licence issued under the Animal Remedies Act 1967 or in accordance with section 93, if the Director-General thinks it is desirable to do so having regard to the nature of any animal remedy, declare that animal remedy to be a prescription animal remedy of one of the following classes:

(a) Class I prescription animal remedies, being those remedies that, subject to the provisions of this section, may be administered to an animal only—

(i) By a veterinary surgeon; or

(ii) Under or in accordance with the authority or prescription of a veterinary surgeon:

(b) Class II prescription animal remedies, being those remedies that, subject to the provisions of this section, may be administered to an animal only—

(i) By a veterinary surgeon; or

(ii) In the presence and under the direct control of a veterinary surgeon:

(c) Class III prescription animal remedies, being those remedies that, subject to the provisions of this section, may be administered to an animal only by a veterinary surgeon.

(2) Subject to subsection (3), no prescription animal remedy may be administered to, or prescribed or dispensed in respect of, an animal except following a veterinary consultation in respect of that animal.

(3) Nothing in this section applies to the administration of any prescription animal remedy to any animal by any person who is, or who belongs to a class of person that is, specifically authorised by the Animal Remedies (Develvetting) Regulations 1994 to administer that remedy.

**99. Labelling**—(1) Where this Part applies to any animal remedy, that animal remedy may be sold only under a label approved by the Director-General.

(2) The Director-General may require the label to display such information about the animal remedy as the Director-General thinks fit.

(3) The Director-General may approve a label subject to such conditions as the Director-General thinks fit to ensure that the label remains fixed to the container and legible.

(4) No person may alter, modify, remove, or deface any label unless that alteration, modification, removal, or defacement has been approved by the Director-General.

(5) The Director-General may at any time, by notice in writing to the holder of a licence to import, or manufacture, and sell any animal remedy, cancel the approval of any label and approve another label.

(6) Where, before the commencement of this Act, any label has been approved by the Board under section 36 of the Animal Remedies Act 1967, that label is deemed to have been approved by the Director-General on the same terms and conditions as the label was approved by the Board.

(7) Where, before the commencement of this Act, the Board was considering any change to a label, the Board must refer the matter to the Director-General, who must continue and complete the matter in accordance with section 36 of the Animal Remedies Act 1967 as if the Director-General were the Board.

(8) The provisions of sections 34 and 35 of the Animal Remedies Act 1967 apply to any decision made by the

Director-General under subsections (1), (3), and (7) as if this Act had not been enacted.

**100. Containers for animal remedies**—No person may sell any animal remedy unless it is securely packed in a container that is suitable, having regard to the contents of the container.

**101. Warranties**—The licensing of an animal remedy or approval of a label does not imply a warranty by the Crown, the Director-General, or the Board that the animal remedy is reasonably fit for the purpose for which it is sold or that any statement contained in the label is correct.

**102. Advertisements**—(1) Subject to subsection (2), no reference may be made in any advertisement in respect of an animal remedy to the licensing of the remedy, except a statement that the animal remedy is licensed in accordance with section 21 or section 22 of the Animal Remedies Act 1967.

(2) No drug, medicine, remedy, or therapeutic preparation or biochemical substance may be advertised as an animal remedy unless it is licensed in accordance with section 21 of the Animal Remedies Act 1967.

(3) Every advertisement in respect of a prescription animal remedy must include—

(a) The letters (in bold capitals) "P.A.R."; and

(b) The expression "Class I" or "Class II" or "Class III" (as the case may require); and

(c) A list of the active ingredients of the remedy; and

(d) The number of the relevant licence; and

(e) Such other statements (if any) as the Director-General may direct either generally or in respect of any particular animal remedy or class of animal remedy.

(4) Where the Director-General is satisfied that an advertisement published by the licensee in respect of an animal remedy contains any inaccurate or misleading statement or otherwise contravenes any of the requirements of this Part of this Act, or of any regulations listed in Part 1 of Schedule 5 relating to advertisements, the Director-General may direct the licensee to omit or modify the statement, or otherwise amend the statement, in such manner as the Director-General may determine.

(5) Where the Director-General is satisfied that any person has published an advertisement—

(a) In respect of an animal remedy that is not licensed under section 21 of the Animal Remedies Act 1967; or

(b) That contains any inaccurate or misleading statement,—

the Director-General may require that person to submit to the Director-General every advertisement published or to be published by that person in respect of an animal remedy or all animal remedies for which that person holds a licence, during such period as the Director-General may determine, or until further notice from the Director-General.

**103. Register of licences**—(1) The Director-General must keep a register of all licenses issued by the Board under the Animal Remedies Act 1967 or issued in accordance with section 93 of this Act.

(2) The register kept under this section must contain the same particulars as are required for the register maintained under section 31 of the Animal Remedies Act 1967.

(3) Upon the issue of any licence under section 93, the Board must notify the Director-General of the issue of that licence.

**104. Correction of errors**—(1) Where, before the commencement of this Act, the Board was correcting any error in accordance with section 32 of the Animals Remedies Act 1967, the Board must refer the matter to the Director-General, who may continue and complete the matter in accordance with that section as if the Director-General were the Board.

(2) Where, after the commencement of this Act, the Director-General is satisfied that an error exists in accordance with section 32 of the Animal Remedies Act 1967, the Director-General may correct the error in accordance with section 32 of that Act as if the Director-General were the Board.

(3) Where a mistake exists in the register of licences kept in accordance with section 103 or in a licence issued under section 93, by reason of an error or omission on the part of the Director-General, the Director-General may correct the mistake, and for that purpose may require production of the licence or other document held by the licensee.

**105. Loss or destruction of licence**—Where, after the commencement of this Act, the Director-General is satisfied that any licence has been lost, destroyed, or cannot be produced, the Director-General may issue a further licence in accordance with section 33 of the Animal Remedies Act 1967 as if the Director-General were the Board.

**106. Reissue of licence**—Where, after the commencement of this Act, the provisions of section 26A of the Animal Remedies Act 1967 apply to any licence, the Director-General may reissue the licence in accordance with the provisions of that section as if the Director-General were the Board.

**107. Revocation or suspension of licences**—(1) Where, before the commencement of this Act, the Board was considering the revocation or suspension of any licence in accordance with section 28 of the Animal Remedies Act 1967, the Board must refer the matter to the Director-General who may continue and complete the matter in accordance with that section; and the provisions of section 34 and section 35 of that Act apply with all necessary modifications to the Director-General's decision as if this Act had not been enacted.

(2) Where, after the commencement of this Act, the provisions of section 28 of the Animal Remedies Act 1967 apply to any licence, the Director-General may revoke or suspend the licence in accordance with that section as if the Director-General were the Board.

**108. Variation of particulars**—(1) Where, before the commencement of this Act, the Board was notified of a variation in the particulars of an application in accordance with section 29 of the Animal Remedies Act 1967, the Board must refer the matter to the Director-General, who may continue and complete the matter in accordance with that section as if the Director-General were the Board.

(2) Where, after the commencement of this Act, the provisions of section 29 of the Animal Remedies Act 1967 apply to any application, the licensee must notify the Director-General of the variation or change; and the provisions of that section apply as if the Director-General were the Board.

**109. Information protected under Part IIA of Animal Remedies Act 1967**—The protection accorded to information by Part IIA of the Animal Remedies Act 1967 continues for the period specified in that Part of that Act, as though that Act had not been repealed, and during that period that information must not be used for the purposes of determining whether to grant—

(a) A licence under section 93; or

(b) An application under Part 2.

**110. Regulations to continue to apply**—(1) Such of the regulations specified in Part 1 of Schedule 5 as are in force on the date of commencement of this Act, subject to section 88 (e), continue in force as if they had been made under this Act.

(2) Unless in any case the context otherwise requires, and subject to the provisions of this Part of this Act, in any regulations specified in Part 1 of Schedule 5,—

(a) Every reference to the Animal Remedies Board must be read as a reference to the Director-General:

(b) Every reference to an inspector must be read as a reference to an inspector as defined in section 2:

(c) Every reference to a veterinary surgeon must be read as a reference to a veterinarian as defined in section 2.

(3) Regulations 34A, 34B, and 36 (1) of the Animal Remedies Regulations 1980 are revoked.

(4) The right of appeal referred to in regulation 37 of the Animal Remedies Regulations 1980 continues to apply as if this Act had not been enacted.

(5) The Director-General, as he or she thinks fit, may grant to the holder of any licence an exemption from any regulation specified in Part 1 of Schedule 5 for such period as the Director-General determines in respect of any such exemption.

**111. Transfer of assets of Animal Remedies Board**—(1) All rights, assets, liabilities, and debts that the Animal Remedies Board has, at the date it ceases to exist in accordance with section 96, become the rights, assets, liabilities, and debts of the Director-General.

(2) Any property that the Animal Remedies Board has, at the date it ceases to exist in accordance with section 96, vests in the Director-General.

*Pesticides*

**112. Application of sections 113 to 122**—(1) Subject to subsections (2) and (3), sections 113 to 122 apply to those pesticides which, before the date of commencement of this Act, were—

(a) Registered pesticides under section 21 of the Pesticides Act 1979; or

(b) Pesticides subject to an experimental use permit under section 25 of the Pesticides Act 1979; or

(c) Pesticides subject to Ministerial exemption under section 8 of the Pesticides Act 1979; or

(d) Pesticides registered in accordance with the provisions of section 165 of the Hazardous Substances and New Organisms Act 1996.

(2) Where, before the date of commencement of this Act, any pesticide was subject to Ministerial exemption under section 8 of the Pesticides Act 1979, it is exempt only from such of the provisions of sections 113 to 122 as are equivalent to those provisions of the Pesticides Act 1979 from which it was exempted under the notice of Ministerial exemption.

(3) Sections 113 to 122 do not apply to any pesticide included in any regulations made under section 88.

**113. Continuation of sale and use of pesticide**—Where any pesticide is subject to regulations made under section 160 (1) (a) of the Hazardous Substances and New Organisms Act 1996, that pesticide may continue to be sold and used as a pesticide subject to the provisions of sections 114 to 122.

**114. Registration subject to restricted use**—Any pesticide registered under section 21 of the Pesticides Act 1979, or in accordance with section 165 of the Hazardous Substances and New Organisms Act 1996 and also registered for restricted use under section 24 of the Pesticides Act 1979, or in accordance with section 165 of the Hazardous Substances and New Organisms Act 1996, continues to be used in accordance with the provisions of section 24 of the Pesticides Act 1979.

**115. Experimental use permits**—Notwithstanding the provisions of section 165 (3) of the Hazardous Substances and New Organisms Act 1996, the Director-General may at any time cancel an experimental use permit granted under section 25 of the Pesticides Act 1979 or in accordance with section 165 of the Hazardous Substances and New Organisms Act 1996 if, in the opinion of the Director-General, the continued use of that pesticide is likely to affect adversely the purpose of this Act.

**116. Labelling**—(1) The Director-General has all the powers of the Authority under section 166 of the Hazardous Substances and New Organisms Act 1996 in relation to the labelling of a pesticide for the purposes of this Act.

(2) Where a regulation made under section 160 (1) (b) of the Hazardous Substances and New Organisms Act 1996 applies to

a pesticide, the provisions of section 166 of that Act continue to apply to the labelling of a pesticide for the purposes of this Act.

**117. Advertisements**—(1) The Director-General has the power of the Authority under section 167 of the Hazardous Substances and New Organisms Act 1996 in relation to the advertising of a pesticide for the purposes of this Act.

(2) Where a regulation made under section 160 (1) (b) of the Hazardous Substances and New Organisms Act 1996 applies to a pesticide, the provisions of section 167 of that Act continue to apply to the advertising of a pesticide for the purposes of this Act.

**118. Review of registration**—(1) The Director-General has the same powers and obligations as the Authority has under section 168 (1) and (2) of the Hazardous Substances and New Organisms Act 1996 to review the registration of a pesticide.

(2) Where the Director-General, after considering any representations or submissions by the proprietor, is satisfied that the continued use of the pesticide is likely to cause significant risks in relation to the matters set out in section 19, the Director-General may attach further conditions to the registration of the pesticide to reduce the risks identified by the Director-General in accordance with this section.

(3) A condition may be attached to the registration of a pesticide in accordance with subsection (2) prohibiting the sale or use of the pesticide.

(4) The provisions of section 168 (4) and (5) of the Hazardous Substances and New Organisms Act 1996 apply to any decision of the Director-General under this section.

**119. Warranties**—The fact that a label has been accepted by the Director-General in accordance with section 116 of this Act does not imply a warranty by the Crown or by the Director-General that the pesticide is reasonably fit for the purpose for which it is sold or that any statement contained in any such label is correct.

**120. Pesticides register**—(1) The Director-General may require the Authority to correct any errors in the register kept by the Authority under section 172 of the Hazardous Substances and New Organisms Act 1996.

(2) The Director-General may incorporate any part or parts of the register kept by the Authority under section 172 of the

Hazardous Substances and New Organisms Act 1996 into the register kept under section 24 as he or she thinks fit.

**121. Information protected under Part IIA of Pesticides Act 1979**—The protection accorded to information by Part IIA of the Pesticides Act 1979 continues for the period specified in that Part of that Act, as though that Act had not been repealed, and during that period that information must not be used for the purposes of determining whether to grant an application under this Act.

**122. Regulations to continue to apply**—(1) Such of the regulations specified in Part 2 of Schedule 5 as are in force on the date of commencement of this Act, subject to section 88 (e), continue in force as if they had been made under this Act.

(2) Unless in any case the context otherwise requires, and subject to the provisions of this Part of this Act, in any regulations specified in Part 2 of Schedule 5,—

(a) Every reference to the Pesticides Board or to a Medical Officer of Health or to the Director-General of Agriculture and Fisheries or an inspector must in each case be read as a reference to the Director-General:

(b) Every reference to the Minister must be read as a reference to the Minister of Agriculture.

# SCHEDULES

Section 69

## SCHEDULE 1

### SEARCH WARRANT

*Section 69 Agricultural Compounds and Veterinary Medicines Act 1997*

To every member of the Police
*or* [*Full name*], an inspector or [*Full name*] member of the Police

I am satisfied on an application in writing made on oath by [*Full name*], an inspector under the Agricultural Compounds and Veterinary Medicines Act 1997 that there is reasonable ground for believing that there is (or are) on, in, under or over

[*Description of place, dwellinghouse, or marae*]

the following thing (or things) which or each of which is a thing

- in respect of which an offence against the Agricultural Compounds and Veterinary Medicines Act 1997 has been or may have been committed; or
- that is or may be evidence of the commission of an offence against the Agricultural Compounds and Veterinary Medicines Act 1997; or
- that is intended to be used for the commission of an offence against the Agricultural Compounds and Veterinary Medicines Act 1997.

[*Description of thing or things and, in respect of each, reference to offence concerned*]

I AUTHORISE YOU to enter and search that place on one occasion at any reasonable time within 14 days of the date of this warrant.

THIS WARRANT IS ISSUED SUBJECT TO THE CONDITIONS SPECIFIED BELOW

If issued to a named inspector in respect of a dwellinghouse or marae, this warrant may not be executed unless the inspector executing it is accompanied by a member of the Police.

[*Other conditions (if any)*]

ISSUED at this day of 19 .

District Court Judge
(*or* Justice of the Peace)
(*or* Registrar (not being a member of the Police)).

SCHEDULE 2 Section 85

ENACTMENTS AMENDED

| Enactment | Amendment |
|---|---|
| 1956, No. 18—The Co-operative Companies Act 1956 (R.S. Vol. 1, p. 545) | By repealing the definition of the term "fertiliser" in section 2 (1). |
| 1981, No. 118—The Medicines Act 1981 | By repealing the definition of the term "Animal remedy" in section 2 (1), and substituting the following definition:<br>" 'Animal remedy' or 'remedy' means any drug, remedy, or therapeutic preparation, or any biochemical substance, which is manufactured, imported, or advertised for sale or is sold for any of the following purposes:<br>"(a) Curing, diagnosing, treating, controlling, or preventing any disease in animals; or<br>"(b) Destroying or preventing parasites on or in animals; or<br>"(c) Maintaining or improving the health, condition, productivity, or appearance of any animal; or<br>"(d) Capturing or immobilising any animal;—<br>but does not include any preparation, substance, or product which is used primarily as a food for animals:". |
| 1994, No. 164—The Income Tax Act 1994 | By omitting from section EK 1 (1) the words "within the meaning of the Fertilisers Act 1960". |
| 1996, No. 30—The Hazardous Substances and New Organisms Act 1996 | By repealing section 55 (5) and (6) and substituting the following subsections:<br>"(4A) Where—<br>"(a) Any information is held by the Authority relating to any application made under section 28 or section 31 or section 47 in respect of a hazardous substance; and<br>"(b) That substance is also the subject of an innovative agricultural compound application as defined in Part 4 of the Agricultural Compounds and Veterinary Medicines Act 1997; and |

SCHEDULE 2—*continued*

ENACTMENTS AMENDED—*continued*

| Enactment | Amendment |
|---|---|
| 1996, No. 30—The Hazardous Substances and New Organisms Act 1996—*continued* | "(c) That information includes trade secrets or information that has commercial value that would be, or would be likely to be, diminished by disclosure,—<br>the provisions of Part 4 of the Agricultural Compounds and Veterinary Medicines Act 1997, with the necessary modifications, apply to that information as if the information were confidential supporting information as defined in that Part of that Act.<br>"(4B) The provisions of Part 4 of the Agricultural Compounds and Veterinary Medicines Act 1997, with the necessary modifications, apply to the Authority in respect of the information referred to in subsection (4A) as if the Authority were the Director-General, and as if references in those sections to applications were references to applications in respect of hazardous substances; but—<br>"(a) The protected period (as defined in Part 4 of the Agricultural Compounds and Veterinary Medicines Act 1997) is the same period for which the information is protected under the Agricultural Compounds and Veterinary Medicines Act 1997; and<br>"(b) The Authority may disclose the information to any prescribed person or organisation or prescribed class of persons or organisations; and<br>"(c) The Authority must provide a summary of the effects of any substance in respect of which subsection (4A) applies where an application for approval is required to be publicly notified |

SCHEDULE 2—*continued*

ENACTMENTS AMENDED—*continued*

| Enactment | Amendment |
|---|---|
| 1996, No. 30—The Hazardous Substances and New Organisms Act 1996—*continued* | in accordance with section 53 of this Act."<br>By omitting from section 55 (7) the expression "6 (b)", and substituting the expression "(4A) (b)". |

Section 86 (1)

## SCHEDULE 3

### ENACTMENTS REPEALED

1946, No. 6—The Stock Foods Act 1946. (R.S. Vol. 11, p. 413.)
1960, No. 33—The Fertilisers Act 1960. (R.S. Vol. 19, p. 335.)
1962, No. 66—The Fertilisers Amendment Act 1962. (R.S. Vol. 19, p. 355.)
1966, No. 48—The Stock Foods Amendment Act 1966. (R.S. Vol. 11, p. 429.)
1967, No. 51—The Animal Remedies Act 1967. (R.S. Vol. 21, p. 11.)
1968, No. 67—The Animal Remedies Amendment Act 1968. (R.S. Vol. 21, p. 68.)
1969, No. 51—The Animal Remedies Amendment Act 1969. (R.S. Vol. 21, p. 69.)
1971, No. 81—The Animal Remedies Amendment Act 1971. (R.S. Vol. 21, p. 70.)
1972, No. 47—The Animal Remedies Amendment Act 1972. (R.S. Vol. 21, p. 70.)
1972, No. 58—The Fertilisers Amendment Act 1972. (R.S. Vol. 19, p. 355.)
1976, No. 73—The Animal Remedies Amendment Act 1976. (R.S. Vol. 21, p. 70.)
1980, No. 144—The Stock Foods Amendment Act 1980. (R.S. Vol. 11, p. 430.)
1981, No. 59—The Animal Remedies Amendment Act 1981. (R.S. Vol. 21, p. 71.)
1981, No. 95—The Stock Foods Amendment Act 1981. (R.S. Vol. 21, p. 72.)
1981, No. 118—The Medicines Act 1981: Section 111.
1982, No. 59—The Animal Remedies Amendment Act 1982. (R.S. Vol. 21, p. 72.)
1982, No. 134—The Fertilisers Act 1982.
1986, No. 121—The Fair Trading Act 1986: So much of Part A of the Second Schedule as relates to the Fertilisers Act 1982.
1987, No. 8—The Official Information Amendment Act 1987: So much of the Third Schedule as relates to the Animal Remedies Act 1967.
1988, No. 121—The Animal Remedies Amendment Act 1988.
1989, No. 143—The Regulations (Disallowance) Act 1989: So much of the Schedule as relates to the Stock Foods Act 1946.
1990, No. 53—The Ministry of Agriculture and Fisheries Amendment Act 1990: Section 2 (4) (i).
1991, No. 60—The Judicature Amendment Act 1991: So much of the Schedule as relates to the Animal Remedies Act 1967.
1991, No. 150—The Building Act 1991: So much of the Fourth Schedule as relates to the Animal Remedies Act 1967.
1992, No. 47—The Crown Research Institute Act 1992: Section 49 (1) and so much of the First Schedule as relates to the Fertilisers Act 1960 and the Animal Remedies Act 1967.
1993, No. 95—The Biosecurity Act 1993: So much of the Fourth Schedule as relates to the Animal Remedies Act 1967.
1994, No. 126—The Animal Remedies Amendment Act 1994.

## SCHEDULE 4

Section 86 (2)

REGULATIONS AND ORDERS REVOKED

| Title | *Gazette* Reference or Statutory Regulations Serial Number |
|---|---|
| The Stock Food Regulations 1948 ... ... | 1948/145 |
| The Fertilizer Control Regulations 1948 ... | 1948/198 |
| The Fertilisers (Fees) Regulations 1961 ... | 1961/62 |
| The Fertilisers Regulations 1969 ... ... | 1969/88 |
| The Fertilisers Regulations 1969, Amendment No. 1 ... ... ... ... | 1975/96 |
| The Fertilisers Regulations 1969, Amendment No. 2 ... ... ... ... | 1981/155 |
| The Fertilisers Regulations 1969, Amendment No. 3 ... ... ... ... | 1981/298 |
| The Pesticides Regulations 1983: Regulation 10 | 1983/14 |
| The Pesticides (Organochlorine) Notice 1984 | *Gazette* 1984, Vol. III, p. 3104 |
| The Pesticides Regulations 1983, Amendment No. 2 ... ... ... ... | 1985/196 |
| The Animal Remedies Regulations 1980, Amendment No. 3 ... ... ... ... | 1988/233 |
| The Pesticides (Antifouling Paints) Order 1989 | 1989/166 |
| The Animal Remedies (Fees) Regulations 1993 | 1993/171 |
| The Pesticides (Fees) Regulations 1993 ... | 1993/172 |
| The Pesticides (Organotin Antifouling Paints) Regulations 1993 ... ... ... ... | 1993/326 |
| The Animal Remedies Amendment Act Commencement Order 1994 ... ... | 1994/307 |
| The Pesticides (Fees) Regulations 1993, Amendment No. 1 ... ... ... ... | 1995/102 |
| The Animal Remedies (Fees) Regulations 1993, Amendment No. 1 ... ... ... | 1995/103 |

Section 110

## SCHEDULE 5

REGULATIONS AND ORDERS CONTINUED IN FORCE

*Part 1*

| Title | *Gazette* Reference or Statutory Regulations Serial Number |
|---|---|
| The Animals Remedies Regulations 1980 ... | 1980/145 |
| The Animals Remedies (Develvetting) Regulations 1994 ... ... ... ... ... | 1994/161 |

Section 122

*Part 2*

| Title | *Gazette* Reference or Statutory Regulations Serial Number |
|---|---|
| The Pesticides Regulations 1983 (except regulation 10) ... ... ... ... | 1983/114 |
| The Pesticides (Bacterial and Fungal Preparations) Order 1984 ... ... ... ... | 1984/216 |
| Notice Exempting Pesticides from Registration | *Gazette* 1991, Vol. III, p. 2425 |
| Specification of countries from which Unregistered Pesticides may be imported for "own use" ... ... ... ... ... | *Gazette* 1992, Vol. III, p. 2522 |

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This Act is administered in the Ministry of Agriculture and Forestry.